



# COUNTY OF LOS ANGELES

## FIRE DEPARTMENT

1320 NORTH EASTERN AVENUE  
LOS ANGELES, CALIFORNIA 90063-3294  
(323) 881-2401

P. MICHAEL FREEMAN  
FIRE CHIEF  
FORESTER & FIRE WARDEN

July 29, 2008

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

Dear Supervisors:

### **APPROVAL OF CONTRACT FOR LEASE OF HELITANKER (ALL DISTRICTS) (3 VOTES)**

#### **SUBJECT**

During the Fire Season, the Consolidated Fire Protection District (District) is requesting a 120-day lease of an exclusive use Helitanker. The District engages in short term leases of specialized firefighting aircraft because unpredictable weather conditions dictate the need for increased water-dropping capacity during the late summer and fall seasons. Due to the historic low fuel moisture, fire weather and the continued drought, additional aerial firefighting resources are needed to protect lives, property, and the environment. A dedicated Helitanker will enhance the District's initial aerial attack capabilities on wildland fires.

**IT IS RECOMMENDED THAT YOUR BOARD, ACTING AS THE GOVERNING BODY  
OF THE CONSOLIDATED FIRE PROTECTION DISTRICT:**

1. Find that this contract is exempt from the provisions of the California Environmental Quality Act (CEQA).

SERVING THE UNINCORPORATED AREAS OF LOS ANGELES COUNTY AND THE CITIES OF:

AGOURA HILLS  
ARTESIA  
AZUSA  
BALDWIN PARK  
BELL  
BELL GARDENS  
BELLFLOWER  
BRADBURY

CALABASAS  
CARSON  
CERRITOS  
CLAREMONT  
COMMERCE  
COVINA  
CUDAHY

DIAMOND BAR  
DUARTE  
EL MONTE  
GARDENA  
GLENDALE  
HAWAIIAN GARDENS  
HAWTHORNE

HIDDEN HILLS  
HUNTINGTON PARK  
INDUSTRY  
INGLEWOOD  
IRVINDALE  
LA CANADA FLINTRIDGE  
LA HABRA

LA MIRADA  
LA PUENTE  
LAKEWOOD  
LANCASTER  
LAWNDALE  
LOMITA  
LYNWOOD

MALIBU  
MAYWOOD  
NORWALK  
PALMDALE  
PALOS VERDES ESTATES  
PARAMOUNT  
PICO RIVERA

POMONA  
RANCHO PALOS VERDES  
ROLLING HILLS  
ROLLING HILLS ESTATES  
ROSEMEAD  
SAN DIMAS  
SANTA CLARITA

SIGNAL HILL  
SOUTH EL MONTE  
SOUTH GATE  
TEMPLE CITY  
WALNUT  
WEST HOLLYWOOD  
WESTLAKE VILLAGE  
WHITTIER

2. Approve and instruct the Chairman to sign a five-year contract with Erickson Air-Crane Incorporated (Attachment A), to provide a 120-day lease of an exclusive use Helitanker. The initial term of this contract will be for five (5) years. The effective date of this contract will be upon approval by your Board.
3. Authorize the Fire Chief to execute the annual lease for each year of the five (5) year contract and negotiate additional time (past the initial 120 days) due to the severity of the fire season and available funding.
4. Authorize the Fire Chief, or his designee to amend, suspend and/or terminate this contract, if deemed necessary, in accordance with the District's contract for Lease of Helitanker.
5. Authorize total expenditures of \$2,700,000 per year for the five (5) years contract; representing a portion of the previous Board approved overall authority of \$ 9.5 million annually for District's Contract Air Program. The District's expenditures for this contract will require no increase to the existing Board approved contract authority.

#### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

Since the Firestorms of 1993, the District has augmented its existing dual-purpose helicopters with initial attack aircraft solely dedicated to wildland firefighting operations. The District has been utilizing an exclusive use Helitanker as part of a short-term lease of specialized aircraft because unpredictable weather conditions dictate the need for increased water-dropping capacity during the late summer and fall seasons. The District's existing helicopter fleet is designed to handle most wildland fires that occur for the remaining portion of the year when weather conditions are not as severe.

The combination of an increased aerial attack, improved pre-planning in high-risk areas, and the Brush Clearance Program has proven successful in terms of life and property protection. Because of the historic low fuel moisture; fire weather and the continued drought, additional aerial firefighting resources are immediately needed to protect lives, property, and the environment for this year and the next four (4) years. The Erickson Air Crane Incorporated Helitanker has a fixed tank with a 2,650 gallon capacity, a patented self-filling snorkel pump system that is capable of using bodies of water that are a minimum of 18" deep and water/foam cannon. These unique features enable Erickson Air-Crane Incorporated to hydraulically draft water and immediately return to the fire. The benefits of the fixed tank is that it is more stable than suspended bucket operations, provides for more accuracy of water drops in mountainous and/or windy conditions; and the fixed tank can mix water with Class "A" foam concentrate to substantially increase the extinguishing effectiveness of the water drops.

### Implementation of Strategic Plan Goals

In accordance with the Strategic Plan Goals of service excellence, fiscal integrity, organizational effectiveness, and workforce excellence, the implementation of this contract along with the increased requirements for professionalism and expertise, promotes and further enhances the District's goals to meet the requirements for the Lease of a Helitanker.

### **FISCAL IMPACT/FINANCING**

The current 2008-09 Contract Air Program for the District is budgeted at \$5.8 million, and is based on the initial terms of the proposed contracts and a spending authority of \$9.5 million. The reserve will be used for costs associated with additional flight hours incurred for any combination of the contract aircraft and/or term extensions to meet wildland fire conditions.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

The District is authorized to contract with independent companies for this service under California Health and Safety Code 13861.

This will be an initial exclusive use contract with Erickson Air-Crane Incorporated. This contract is being established because of the critical fire weather and fuel conditions that exist in Los Angeles County.

The contract will include provisions that extend the contract beyond the initial term and negotiate the Hourly Flight Rate based on the published hourly rate by the United States Department of Agriculture, United State Forest Services, applicable to the S-64 Helicopter, and adjusted by the USDA/USFS through the term of this contract. The Daily Rate will be a firm fixed rate per calendar year for the duration of the five (5) years. No COLAs will be granted.

On final analysis and consideration of this award, the contractor was selected without regard to race, color, creed, or national origin.

### **ENVIRONMENTAL DOCUMENTATION**

The services provided through this contract will not have a significant effect on the environment and are therefore exempt from CEQA, pursuant to Section 15061(b) (3) of the CEQA Guidelines.

### **CONTRACTING PROCESS**

The District issued an Invitation for Bid (IFB) solicitation to seek contractors capable of providing a Lease Helitanker for the District. Solicitations were posted in six (6) local community newspapers and on the Office of Small Business web site, in accordance with established County bid procedures and policies. Responses were received from one (1) contractor. Erickson Air-Crane Incorporated was evaluated as the most responsible contractor and is recommended for award of contract. See attached price sheet (Attachment B). The recommended contractor has agreed to comply and adhere to all terms and conditions outlined in the contract.

The District has evaluated and determined that this contractor complied with the District's policy of compliance with the Community Business Enterprises Program (Attachment C), Child Support Compliance Program and Contractor's Responsibility and Debarment Program, the Safely Surrendered Baby Law, and the Contractor Employee Jury Services-Program, and agrees to maintain compliance with all contract requirements throughout the term of their contract.

The District has reviewed the Better Business Bureau and the State Business License websites to assess the proposed contractor's past performances, negative experiences, and complaints with other agencies and has found that there are currently no complaints against this contractor.

The contractor was evaluated and deemed capable of performing the services requested, based on their qualifications and experiences as stated in their bids.

### **IMPACT ON CURRENT SERVICES (OR PROJECTS)**

The District is currently obtaining these services through purchase orders on an as-needed basis. Approval of this recommended contract will enhance the District's wildland fire suppression capabilities. This enhancement is crucial during the extreme climatic conditions of the District's annual fire season.

Therefore, there will be no significant impact on current services. The contractors will continue to provide the services as the contractors upon approval by the Board.

The Honorable Board of Supervisors  
July 29, 2008  
Page 5

**CONCLUSION**

Upon execution by your Honorable Board, the District will need two (2) original certified copies of the adopted Board Letter and Contract. It is requested that the Executive Office of the Board notify the District's Contract Administrator, Lucy Guadiana, at (323) 838-2275 when the documents become available.

Respectfully submitted,

*P. Michael Freeman*

P. MICHAEL FREEMAN

PMF:lg

Attachments (3)

c: Chief Executive Officer  
County Counsel  
Executive Office, Board of Supervisors

***LEASE CONTRACT***



**BY AND BETWEEN**

**CONSOLIDATED FIRE PROTECTION DISTRICT  
OF LOS ANGELES COUNTY**

**AND**

**ERICKSON AIR-CRANE INCORPORATED**

**FOR**

**LEASE OF HELITANKER  
WITH SELF FILLING TANK**

**LEASE CONTRACT PROVISIONS  
TABLE OF CONTENTS**

| <b>PARAGRAPH</b>      | <b>TITLE</b>  | <b>PAGE</b> |
|-----------------------|---|-------------|
| <b>RECITALS</b> ..... |   | <b>1</b>    |
| <b>1.0</b>            | <b>APPLICABLE DOCUMENTS</b> .....   | <b>2</b>    |
| <b>2.0</b>            | <b>DEFINITIONS</b> .....  | <b>2</b>    |
| <b>3.0</b>            | <b>WORK</b> .....   | <b>3</b>    |
| <b>4.0</b>            | <b>TERM OF CONTRACT</b> .....   | <b>3</b>    |
| <b>5.0</b>            | <b>CONTRACT SUM</b> .....   | <b>4</b>    |
| <b>6.0</b>            | <b>ADMINISTRATION OF CONTRACT- COUNTY</b> .....   | <b>7</b>    |
| 6.1                   | DISTRICT'S CONTRACT DIRECTOR.....   | 7           |
| 6.2                   | DISTRICT'S CONTACT ADMINISTRATOR.....   | 7           |
| 6.3                   | DISTRICT'S CONTRACT PROJECT MONITOR .....   | 8           |
| <b>7.0</b>            | <b>ADMINISTRATION OF CONTRACT - CONTRACTOR</b> .....  | <b>8</b>    |
| 7.1                   | CONTRACTOR'S PROJECT MANAGER .....  | 8           |
| 7.2                   | APPROVAL OF CONTRACTOR'S STAFF .....  | 8           |
| 7.3                   | CONTRACTOR'S STAFF IDENTIFICATION .....   | 8           |
| 7.4                   | BACKGROUND & SECURITY INVESTIGATIONS .....  | 9           |
| 7.5                   | CONFIDENTIALITY .....   | 10          |
| <b>8.0</b>            | <b>STANDARD TERMS AND CONDITIONS</b>  |             |
| 8.1                   | AMENDMENTS.....   | 10          |
| 8.2                   | ASSIGNMENT AND DELEGATION .....   | 11          |
| 8.3                   | AUTHORIZATION WARRANTY .....  | 12          |
| 8.4                   | BUDGET REDUCTIONS.....  | 12          |
| 8.5                   | COMPLAINTS .....  | 13          |
| 8.6                   | COMPLIANCE WITH APPLICABLE LAW.....   | 13          |
| 8.7                   | COMPLIANCE WITH CIVIL RIGHTS LAWS.....  | 14          |
| 8.8                   | COMPLIANCE WITH THE COUNTY'S JURY SERVICE PROGRAM .....                                     | 14          |
| 8.9                   | CONFLICT OF INTEREST.....   | 16          |
| 8.10                  | CONSIDERATION OF HIRING COUNTY EMPLOYEES TARGETED<br>FOR LAYOFF/OR RE-EMPLOYMENT LIST ..... | 17          |
| 8.11                  | CONSIDERATION OF HIRING GAIN/GROW PROGRAM<br>PARTICIPANTS .....                             | 17          |

**LEASE CONTRACT PROVISIONS  
TABLE OF CONTENTS**

| <b>PARAGRAPH</b> | <b>TITLE</b>   | <b>PAGE</b> |
|------------------|--|-------------|
| 8.12             | CONTRACTOR RESPONSIBILITY AND DEBARMENT .....  | 18          |
| 8.13             | CONTRACTOR'S ACKNOWLEDGEMENT OF COUNTY'S<br>COMMITMENT TO THE SAFELY SURRENDERED BABY LAW..... | 21          |
| 8.14             | CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S<br>CHILD SUPPORT COMPLIANCE PROGRAM .....       | 21          |
| 8.15             | COUNTY'S QUALITY ASSURANCE PLAN.....   | 22          |
| 8.16             | DAMAGE TO COUNTY FACILITIES, BUILDINGS OR GROUNDS .....  | 22          |
| 8.17             | EMPLOYMENT ELIGIBILITY VERIFICATION.....   | 22          |
| 8.18             | FACSIMILE REPRESENTATIONS .....  | 23          |
| 8.19             | FAIR LABOR STANDARDS .....   | 23          |
| 8.20             | FORCE MAJEURE.....   | 24          |
| 8.21             | GOVERNING LAW, JURISDICTION, AND VENUE .....   | 24          |
| 8.22             | INDEPENDENT CONTRACTOR STATUS .....  | 25          |
| 8.23             | INDEMNIFICATION .....  | 25          |
| 8.24             | GENERAL INSURANCE REQUIREMENTS .....   | 26          |
| 8.25             | INSURANCE COVERAGE REQUIREMENTS .....  | 28          |
| 8.26             | LIQUIDATED DAMAGES.....  | 30          |
| 8.27             | MOST FAVORED PUBLIC ENTITY .....   | 32          |
| 8.28             | NONDISCRIMINATION AND AFFIRMATIVE ACTION.....  | 32          |
| 8.29             | NON EXCLUSIVITY .....  | 34          |
| 8.30             | NOTICE OF DELAYS.....  | 34          |
| 8.31             | NOTICE OF DISPUTES .....   | 34          |
| 8.32             | NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED<br>INCOME CREDIT.....                         | 34          |
| 8.33             | NOTICE TO EMPLOYEES REGARDING THE SAFELY<br>SURRENDERED BABY LAW .....                         | 35          |
| 8.34             | NOTICES .....  | 35          |
| 8.35             | PROHIBITION AGAINST INDUCEMENT OR PERSUASION .....   | 35          |
| 8.36             | PUBLIC RECORDS ACT .....   | 35          |
| 8.37             | PUBLICITY .....  | 36          |
| 8.38             | RECORD RETENTION AND INSPECTION/AUDIT SETTLEMENT .....   | 37          |
| 8.39             | RECYCLED BOND PAPER .....  | 38          |



**LEASE AGREEMENT PROVISIONS  
TABLE OF CONTENTS**

| <b>PARAGRAPH</b> | <b>TITLE</b>  | <b>PAGE</b> |
|------------------|---|-------------|
| 8.40             | SUBCONTRACTING.....   | 38          |
| 8.41             | TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN<br>COMPLIANCE WITH COUNTY'S CHILD SUPPORT<br>COMPLIANCE PROGRAM..... | 40          |
| 8.42             | TERMINATION FOR CONVENIENCE.....  | 40          |
| 8.43             | TERMINATION FOR DEFAULT.....  | 41          |
| 8.44             | TERMINATION FOR IMPROPER CONSIDERATION.....   | 43          |
| 8.45             | TERMINATION FOR INSOLVENCY.....   | 43          |
| 8.46             | TERMINATION FOR NON-ADHERENCE OF COUNTY LOBBYIST<br>ORDINANCE.....  | 44          |
| 8.47             | TERMINATION FOR NON-APPROPRIATION OF FUNDS.....   | 44          |
| 8.48             | VALIDITY .....  | 45          |
| 8.49             | WAIVER .....  | 45          |
| 8.50             | WARRANTY AGAINST CONTINGENT FEES.....   | 45          |
| 9.0              | <b>UNIQUE TERMS AND CONDITIONS</b>  |             |
| 9.2              | LOCAL SMALL BUSINESS ENTERPRISE (SBE) PREFERENCE<br>PROGRAM.....  | 45          |
| 9.6              | TRANSITIONAL JOB OPPORTUNITIES PREFERENCE PROGRAM.....  | 47          |
|                  | <b>SIGNATURE PAGE.....</b>  | 49          |

## STANDARD EXHIBITS

- A STATEMENT OF WORK
- B PRICING SCHEDULE
- C CONTRACTOR'S PROPOSED SCHEDULE
- D CONTRACTOR'S EEO CERTIFICATION
- E DISTRICT'S ADMINISTRATION
- F CONTRACTOR'S ADMINISTRATION
- G FORMS REQUIRED AT THE TIME OF CONTRACT EXECUTION
- H JURY SERVICE ORDINANCE
- I SAFELY SURRENDERED BABY LAW



## **1.0 APPLICABLE DOCUMENTS**

Exhibits A, B, C, D, E, F, G, H, and I, are attached to and form a part of this Contract. In the event of any conflict or inconsistency in the definition or interpretation of any word, responsibility, schedule, or the contents or description of any task, deliverable, goods, service, or other work, or otherwise between the base Contract and the Exhibits, or between Exhibits, such conflict or inconsistency shall be resolved by giving precedence first to the Contract and then to the Exhibits according to the following priority.

### **Standard Exhibits:**

- 1.1 EXHIBIT A - Statement of Work
- 1.2 EXHIBIT B - Pricing Schedule
- 1.3 EXHIBIT C - Contractor's Proposed Schedule
- 1.4 EXHIBIT D - Contractor's EEO Certification
- 1.5 EXHIBIT E - District's Administration
- 1.6 EXHIBIT F - Contractor's Administration
- 1.7 EXHIBIT G - Forms Required at the Time of Contract Execution
- 1.8 EXHIBIT H - Jury Service Ordinance
- 1.9 EXHIBIT I - Safely Surrendered Baby Law

This Contract and the Exhibits hereto constitute the complete and exclusive statement of understanding between the parties, and supersedes all previous Contracts, written and oral, and all communications between the parties relating to the subject matter of this Contract. No change to this Contract shall be valid unless prepared pursuant to sub-paragraph 8.1 - Amendments and signed by both parties.

## **2.0 DEFINITIONS**

The headings herein contained are for convenience and reference only and are not intended to define the scope of any provision thereof. The following words as used herein shall be construed to have the following meaning, unless otherwise apparent from the context in which they are used.

- 2.1 Contract:** Executed between District and Contractor. It sets forth the terms and conditions for the issuance and performance of the Statement of Work, Exhibit A.

- 2.2 Contractor:** The sole proprietor, partnership, or corporation that has entered into a contract with the District to perform or execute the work covered by the Statement of Work.
- 2.3 Contractor Project Manager:** The individual designated by the Contractor to administer the Contract operations after the Contract award.
- 2.4 County:** Refers to the County of Los Angeles
- 2.5 District:** Refers to the Consolidated Fire Protection District of Los Angeles County.
- 2.6 District Contract Director:** Person designated by District with authority for District on contractual or administrative matters relating to this contract that cannot be resolved by the District Contract Administrator.
- 2.7 District Contract Administrator:** Person designated by District's Contract Director to manage to the operations under this contract.
- 2.7 District Contract Project Manager:** Person with responsibility to oversee the day to day activities of this Contract for the District. Responsibility for inspections of any and all tasks, deliverables, goods, services and other work provided by Contractor.
- 2.8 Day(s):** Calendar day(s) unless otherwise specified.
- 2.9 Fiscal Year:** The twelve (12) month period beginning July 1st and ending the following June 30th.

### **3.0 WORK**

- 3.1** Pursuant to the provisions of this Contract, the Contractor shall fully perform, complete and deliver on time, all tasks, deliverables, services and other work as set forth herein.
- 3.2** If the Contractor provides any tasks, deliverables, goods, services, or other work, other than as specified in this Contract, the same shall be deemed to be a gratuitous effort on the part of the Contractor, and the Contractor shall have no claim whatsoever against the District.

### **4.0 TERM OF CONTRACT**

- 4.1** The term of this Contract shall be five (5) years commencing after execution by District's Board of Supervisors, unless sooner terminated or extended, in whole or in part, as provided in this Contract.

- 4.2 The Contractor shall notify District when this Contract is within six (6) months from the expiration of the term as provided for hereinabove. Upon occurrence of this event, the Contractor shall send written notification to District at the address herein provided in *Exhibit D – District's Administration*.

## **5.0 CONTRACT SUM**

### **HOURLY FLIGHT RATE**

The Contractor will notify the District when the published hourly flight rate has been adjusted upward or downward by the United State Department of Agriculture, United States Forest Services. The District will amend the contract to reflect the hourly flight rate change.

### **DAILY RATE**

The daily rate will be a firm fixed price for the duration of the five (5) years Contract.

- 5.1 The Contractor shall not be entitled to payment or reimbursement for any tasks or services performed, nor for any incidental or administrative expenses whatsoever incurred in or incidental to performance hereunder, except as specified herein. Assumption or takeover of any of the Contractor's duties, responsibilities, or obligations, or performance of same by any entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever, shall occur only with the District's express prior written approval.
- 5.2 The Contractor shall maintain a system of record keeping that will allow the Contractor to determine when it has incurred seventy-five percent (75%) of the total Contract authorization under this Contract. Upon occurrence of this event, the Contractor shall send written notification to District at the address herein provided in *Exhibit D – District's Administration*.

### **5.3 No Payment for Services Provided Following Expiration/Termination of Contract**

The Contractor shall have no claim against District for payment of any money or reimbursement, of any kind whatsoever, for any service

provided by the Contractor after the expiration or other termination of this Contract. Should the Contractor receive any such payment it shall immediately notify District and shall immediately repay all such funds to District. Payment by District for services rendered after expiration/termination of this Contract shall not constitute a waiver of District's right to recover such payment from the Contractor. This provision shall survive the expiration or other termination of this Contract.

#### **5.4 Invoices and Payments**

- 5.4.1 The Contractor shall invoice the District only for providing the tasks, deliverables, goods, services, and other work specified in *Exhibit A - Statement of Work* and elsewhere hereunder. The Contractor shall prepare invoices, which shall include the charges owed to the Contractor by the District under the terms of this Contract. The Contractor's payments shall be as provided in *Exhibit B - Pricing Schedule*, and the Contractor shall be paid only for the tasks, deliverables, goods, services, and other work approved in writing by the District. If the District does not approve work in writing no payment shall be due to the Contractor for that work.
- 5.4.2 The Contractor's invoices shall be priced in accordance with *Exhibit B - Pricing Schedule*.
- 5.4.3 The Contractor's invoices shall contain the information set forth in *Exhibit A - Statement of Work* describing the tasks, deliverables, goods, services, work hours, and facility and/or other work for which payment is claimed.
- 5.4.4 The Contractor shall submit the monthly invoices to the District by the 15<sup>th</sup> calendar day of the month following the month of service.
- 5.4.5 Payment to Contractor shall be made on an arrears basis, upon acceptance of completed work by District, provided that the contractor is not in default under any provisions of this Contract, Contractor is to provide the completed **ORIGINAL** invoice, along with one (1) copy to the following address:

***Consolidated Fire Protection District***

***of Los Angeles County  
Financial Management Division –  
Expenditure Management  
P.O. Box 910901  
Commerce, California 90091-0901***

Contractor shall send one (1) copy of the invoice to the District Contract Project Manager (in addition to sending the invoice to Financial Management Division). The District's Contract Project Manager shall review and approve all invoices of payment that meet criteria as set forth in this Contract. Copy shall be mailed or faxed to:

***Anthony Marrone, Chief  
Consolidated Fire Protection District  
of Los Angeles County  
Air Operations/ Barton Heliport  
12605 Osborne Street  
Pacoima, CA 91331-2129***

District Approval of Invoices.

All invoices submitted by the Contractor for payment must have the written approval of the District's Contract Project Manager prior to any payment thereof. In no event shall the District be liable or responsible for any payment prior to such written approval. Approval for payment will not be unreasonably withheld. To assist the District in making timely payment for services provided hereunder, Contractor's invoice shall contain the following:

- (1) Contract number
- (2) Date of Service
- (3) A breakdown of Hourly Flight Rate and Daily Rate costs as separate items, e.g., Flight: 3 hours @ \$30/hour = \$90.00
- (4) Fixed fees (e.g., any flat rate job) authorized by the District's Contract Project Manager or authorized designee
- (5) Employee Name and Employee Number of District Employee who ordered or authorized service



- (6) A copy of subcontractor or sublet cost with invoice if a portion of work is contracted out Signature of authorized District employee. Contractor's failure to obtain the signature of the District employee authorizing the work shall invalidate the repair order and will result in non-payment.

#### **5.4.6 Local Small Business Enterprises – Prompt Payment Program**

Certified Local SBEs will receive prompt payment for services they provide to County departments. Prompt payment is defined as 15 calendar days after receipt of an undisputed invoice.

## **6.0 ADMINISTRATION OF CONTRACT - DISTRICT**

### **DISTRICT ADMINISTRATION**

A listing of all District Administration referenced in the following sub-paragraphs is designated in *Exhibit D – District's Administration*. The District shall notify the Contractor in writing of any change in the names or addresses shown.

#### **6.1 District's Contract Director**

Responsibilities of the District's Project Director include:

- Ensuring that the objectives of this Contract are met; and
- Providing direction to the Contractor in the areas relating to District policy, information requirements, and procedural requirements.

#### **6.2 District's Contract Administration**

The responsibilities of the District's Contract Administrator include:

- Ensuring that the objectives of this Contract are met;
- Making changes in the terms and conditions of this Contract in accordance with Sub-paragraph 8.1, Amendments; and
- Providing direction to Contractor in the areas relating to District policy, information requirements, and procedural requirements.

#### **6.3 District's Contract Project Monitor**

- Meeting with Contractor's Project Manager on a regular basis; and

- Inspecting any and all tasks, deliverables, goods, services, or other work provided by or on behalf of Contractor.

The District's Project Manager is not authorized to make any changes in any of the terms and conditions of this Contract and is not authorized to further obligate District in any respect whatsoever.

## **7.0 ADMINISTRATION OF CONTRACT - CONTRACTOR**

### **7.1 Contractor's Project Manager**

- 7.1.1 The Contractor's Project Manager is designated in *Exhibit E - Contractor's Administration*. The Contractor shall notify the District in writing of any change in the name or address of the Contractor's Project Manager.
- 7.1.2 The Contractor's Project Manager shall be responsible for the Contractor's day-to-day activities as related to this Contract and shall coordinate with District's Contract Project Manager and District's Contract Project Monitor on a regular basis.
- 7.1.3 The Contractor's Project Manager must have four (4) years of experience.

### **7.2 Approval of Contractor's Staff**

District has the absolute right to approve or disapprove all of the Contractor's staff performing work hereunder and any proposed changes in the Contractor's staff, including, but not limited to, the Contractor's Project Manager.

### **7.3 Contractor's Staff Identification**

Contractor shall provide, at Contractor's expense, all staff providing services under this Contract with a photo identification badge.

- 7.3.1 Contractor is responsible to ensure that employees have obtained an ID badge before they are assigned to work in a District facility. Contractor personnel may be asked to leave a District facility by a District representative if they do not have the proper ID badge on their person.
- 7.3.2 Contractor shall notify the District within one business day when staff is terminated from working under this Contract. Contractor shall retrieve and return an employee's ID badge to the District on the

next business day after the employee has terminated employment with the Contractor.

- 7.3.3 If District requests the removal of Contractor's staff, Contractor shall retrieve and return an employee's ID badge to the District on the next business day after the employee has been removed from working on the District's Contract.

#### **7.4 Background and Security Investigations**

- 7.4.1 At any time prior to or during term of this Contract, the District may require that all Contractor's staff performing work under this Contract undergo and pass, to the satisfaction of District, a background investigation, as a condition of beginning and continuing to work under this Contract. District shall use its discretion in determining the method of background clearance to be used, up to and including a District performed fingerprint security clearance. The fees associated with obtaining the background information shall be at the expense of the Contractor, regardless if the Contractor's staff passes or fails the background clearance investigation.
- 7.4.2 District may request that the Contractor's staff be immediately removed from working on the District Contract at any time during the term of this Contract. District will not provide to the Contractor or to the Contractor's staff any information obtained through the District conducted background clearance.
- 7.4.3 District may immediately, at the sole discretion of the District, deny or terminate facility access to the Contractor's staff who do not pass such investigation(s) to the satisfaction of the District whose background or conduct is incompatible with District facility access.
- 7.4.4 Disqualification, if any, of the Contractor's staff, pursuant to this sub-paragraph 7.4, shall not relieve the Contractor of its obligation to complete all work in accordance with the terms and conditions of this Contract.

#### **7.5 Confidentiality**

- 7.5.1 The Contractor shall maintain the confidentiality of all records obtained from the District under this Contract in accordance with all applicable federal, State or local laws, ordinances, regulations and directives relating to confidentiality.
- 7.5.2 The Contractor shall inform all of its officers, employees, agents and subcontractors providing services hereunder of the confidentiality provisions of this Contract.
- 7.5.3 The Contractor shall sign and adhere to the provisions of the "Contractor Acknowledgement and Confidentiality Agreement", Exhibit F1.
- 7.5.4 The Contractor shall cause each employee performing services covered by this Contract to sign and adhere to the provisions of the "*Contractor Employee Acknowledgment and Confidentiality Agreement*", *Exhibit F2*.
- 7.5.5 The Contractor shall cause each non-employee performing services covered by this Contract to sign and adhere to the provisions of the "*Contractor Non-Employee Acknowledgment and Confidentiality Agreement*", *Exhibit F3*.

## **8.0 STANDARD TERMS AND CONDITIONS**

### **8.1 AMENDMENTS**

- 8.1.1 For any change which affects the scope of work, term, Contract Sum, payments, or any term or condition included under this Contract, an Amendment shall be prepared and executed by the Contractor and by District's Contract Administrator.
- 8.1.2 The County's Board of Supervisors or Chief Executive Officer or designee may require the addition and/or change of certain terms and conditions in the Contract during the term of this Contract. The District reserves the right to add and/or change such provisions as required by the County's Board of Supervisors or Chief Executive Officer. To implement such changes, an Amendment to the Contract shall be prepared and executed by the Contractor and by District's Contract Administrator.

- 8.1.3 The District's Contract Administrator, may at his/her sole discretion, authorize extensions of time as defined in Paragraph 4.0 - Term of Contract. The Contractor agrees that such extensions of time shall not change any other term or condition of this Contract during the period of such extensions. To implement an extension of time, an Amendment to the Contract shall be prepared and executed by the Contractor and by District's Contract Administrator.

## **8.2 ASSIGNMENT AND DELEGATION**

- 8.2.1 The Contractor shall not assign its rights or delegate its duties under this Contract, or both, whether in whole or in part, without the prior written consent of District, in its discretion, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this sub-paragraph, District consent shall require a written amendment to the Contract, which is formally approved and executed by the parties. Any payments by the District to any approved delegate or assignee on any claim under this Contract shall be deductible, at District's sole discretion, against the claims, which the Contractor may have against the District.
- 8.2.2 Shareholders, partners, members, or other equity holders of Contractor may transfer, sell, exchange, assign, or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment, or divestment is effected in such a way as to give majority control of Contractor to any person(s), corporation, partnership, or legal entity other than the majority controlling interest therein at the time of execution of the Contract, such disposition is an assignment requiring the prior written consent of District in accordance with applicable provisions of this Contract.
- 8.2.3 Any assumption, assignment, delegation, or takeover of any of the Contractor's duties, responsibilities, obligations, or performance of same by any entity other than the Contractor,

whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever without District's express prior written approval, shall be a material breach of the Contract which may result in the termination of this Contract. In the event of such termination, District shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by Contractor.

### **8.3 AUTHORIZATION WARRANTY**

The Contractor represents and warrants that the person executing this Contract for the Contractor is an authorized agent who has actual authority to bind the Contractor to each and every term, condition, and obligation of this Contract and that all requirements of the Contractor have been fulfilled to provide such actual authority.

### **8.4 BUDGET REDUCTIONS**

In the event that the County's Board of Supervisors adopts, in any fiscal year, a County Budget which provides for reductions in the salaries and benefits paid to the majority of County employees and imposes similar reductions with respect to County Contracts, the County reserves the right to reduce its payment obligation under this Contract correspondingly for that fiscal year and any subsequent fiscal year during the term of this Contract (including any extensions), and the services to be provided by the Contractor under this Contract shall also be reduced correspondingly. The District's notice to the Contractor regarding said reduction in payment obligation shall be provided within thirty (30) calendar days of the Board's approval of such actions. Except as set forth in the preceding sentence, the Contractor shall continue to provide all of the services set forth in this Contract.

### **8.5 COMPLAINTS**

The Contractor shall develop, maintain and operate procedures for receiving, investigating and responding to complaints.

- 8.5.1 Within thirty (30) business days after this Contract's effective date, the Contractor shall provide the District with the Contractor's policy for receiving, investigating and responding to user complaints.
- 8.5.2 The District will review the Contractor's policy and provide the Contractor with approval of said plan or with requested changes.
- 8.5.3 If the District requests changes in the Contractor's policy, the Contractor shall make such changes and resubmit the plan within five (5) business days for District approval.
- 8.5.4 If, at any time, the Contractor wishes to change the Contractor's policy, the Contractor shall submit proposed changes to the District for approval before implementation.
- 8.5.5 The Contractor shall preliminarily investigate all complaints and notify the District's Contract Project Manager of the status of the investigation within five (5) business days of receiving the complaint.
- 8.5.6 When complaints cannot be resolved informally, a system of follow-through shall be instituted which adheres to formal plans for specific actions and strict time deadlines.
- 8.5.7 Copies of all written responses shall be sent to the District's Contract Project Manager within three (3) business days of mailing to the complainant.

## **8.6 COMPLIANCE WITH APPLICABLE LAW**

- 8.6.1 The Contractor shall comply with all applicable Federal, State, and local laws, rules, regulations, ordinances, and directives, and all provisions required thereby to be included in this Contract are hereby incorporated herein by reference.
- 8.6.2 The Contractor shall indemnify and hold harmless the District from and against any and all liability, damages, costs, and expenses, including, but not limited to, defense costs and attorneys' fees, arising from or related to any violation on the

part of the Contractor or its employees, agents, or subcontractors of any such laws, rules, regulations, ordinances, or directives.

## **8.7 COMPLIANCE WITH CIVIL RIGHTS LAWS**

The Contractor hereby assures that it will comply with Subchapter VI of the Civil Rights Act of 1964, 42 USC Sections 2000 (e) (1) through 2000 (e) (17), to the end that no person shall, on the grounds of race, creed, color, sex, religion, ancestry, age, condition of physical handicap, marital status, political affiliation, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Contract or under any project, program, or activity supported by this Contract. The Contractor shall comply with *Exhibit C - Contractor's EEO Certification*.

## **8.8 COMPLIANCE WITH THE COUNTY'S JURY SERVICE PROGRAM**

### **8.8.1 Jury Service Program:**

This Contract is subject to the provisions of the County's ordinance entitled Contractor Employee Jury Service ("Jury Service Program") as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code, a copy of which is attached as *Exhibit G* and incorporated by reference into and made a part of this Contract.

### **8.8.2 Written Employee Jury Service Policy.**

1. Unless the Contractor has demonstrated to the County's satisfaction either that the Contractor is not a "Contractor" as defined under the Jury Service Program (Section 2.203.020 of the County Code) or that the Contractor qualifies for an exception to the Jury Service Program (Section 2.203.070 of the County Code), the Contractor shall have and adhere to a written policy that provides that its Employees shall receive from the Contractor, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that Employees deposit any fees received for such



jury service with the Contractor or that the Contractor deduct from the Employee's regular pay the fees received for jury service.

2. For purposes of this sub-paragraph, "Contractor" means a person, partnership, corporation or other entity which has a contract with the County or a subcontract with a County Contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts or subcontracts. "Employee" means any California resident who is a full-time employee of the Contractor. "Full-time" means 40 hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by the County, or 2) Contractor has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of 90 days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If the Contractor uses any Subcontractor to perform services for the County or District under the Contract, the Subcontractor shall also be subject to the provisions of this sub-paragraph. The provisions of this sub-paragraph shall be inserted into any such subcontract Contract and a copy of the Jury Service Program shall be attached to the Contract.
3. If the Contractor is not required to comply with the Jury Service Program when the Contract commences, the Contractor shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and the Contractor shall immediately notify the County if the Contractor at any time either comes within the Jury Service Program's definition of "Contractor" or if the Contractor no longer qualifies for an exception to the Jury Service Program. In either event, the Contractor shall immediately implement a written policy consistent with the

Jury Service Program. The County may also require, at any time during the Contract and at its sole discretion, that the Contractor demonstrate to the County's satisfaction that the Contractor either continues to remain outside of the Jury Service Program's definition of "Contractor" and/or that the Contractor continues to qualify for an exception to the Program.

4. Contractor's violation of this sub-paragraph of the Contract may constitute a material breach of the Contract. In the event of such material breach, County may, in its sole discretion, terminate the Contract and/or bar the Contractor from the award of future County contracts for a period of time consistent with the seriousness of the breach.

## **8.9 CONFLICT OF INTEREST**

8.9.1 No District employee whose position with the District enables such employee to influence the award of this Contract or any competing Contract, and no spouse or economic dependent of such employee, shall be employed in any capacity by the Contractor or have any other direct or indirect financial interest in this Contract. No officer or employee of the Contractor who may financially benefit from the performance of work hereunder shall in any way participate in the District's approval, or ongoing evaluation, of such work, or in any way attempt to unlawfully influence the District's approval or ongoing evaluation of such work.

8.9.2 The Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Contract. The Contractor warrants that it is not now aware of any facts that create a conflict of interest. If the Contractor hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to the District. Full written disclosure shall include,

but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of this sub-paragraph shall be a material breach of this Contract.

#### **8.10 CONSIDERATION OF HIRING COUNTY EMPLOYEES TARGETED FOR LAYOFF/OR RE-EMPLOYMENT LIST**

Should the Contractor require additional or replacement personnel after the effective date of this Contract to perform the services set forth herein, the Contractor shall give first consideration for such employment openings to qualified, permanent County employees who are targeted for layoff or qualified, former County employees who are on a re-employment list during the life of this Contract.

#### **8.11 CONSIDERATION OF HIRING GAIN/GROW PROGRAM PARTICIPANTS**

8.11.1 Should the Contractor require additional or replacement personnel after the effective date of this Contract, the Contractor shall give consideration for any such employment openings to participants in the County's Department of Public Social Services Greater Avenues for Independence (GAIN) Program or General Relief Opportunity for Work (GROW) Program who meet the Contractor's minimum qualifications for the open position. For this purpose, consideration shall mean that the Contractor will interview qualified candidates. The County will refer GAIN/GROW participants by job category to the Contractor.

8.11.2 In the event that both laid-off County employees and GAIN/GROW participants are available for hiring, County employees shall be given first priority.

#### **8.12 CONTRACTOR RESPONSIBILITY AND DEBARMENT**

#### **8.12.1 Responsible Contractor**

A responsible Contractor is a Contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the contract. It is the District's policy to conduct business only with responsible Contractors.

#### **8.12.2 Chapter 2.202 of the County Code**

The Contractor is hereby notified that, in accordance with Chapter 2.202 of the County Code, if the County acquires information concerning the performance of the Contractor on this or other contracts which indicates that the Contractor is not responsible, the District may, in addition to other remedies provided in the Contract, debar the Contractor from bidding or proposing on, or being awarded, and/or performing work on District contracts for a specified period of time, which generally will not exceed five years but may exceed five years or be permanent if warranted by the circumstances, and terminate any or all existing Contracts the Contractor may have with the District.

#### **8.12.3 Non-responsible Contractor**

The County or District may debar a Contractor if the Board of Supervisors finds, in its discretion, that the Contractor has done any of the following: (1) violated a term of a contract with the County or a nonprofit corporation created by the County, (2) committed an act or omission which negatively reflects on the Contractor's quality, fitness or capacity to perform a contract with the County, any other public entity, or a nonprofit corporation created by the County, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the County, District or any other public entity.

#### **8.12.4 Contractor Hearing Board**

1. If there is evidence that the Contractor may be subject to debarment, the District will notify the Contractor in writing of the evidence which is the basis for the proposed debarment and will advise the Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.
2. The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Contractor and/or the Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a tentative proposed decision, which shall contain a recommendation regarding whether the Contractor should be debarred, and, if so, the appropriate length of time of the debarment. The Contractor and the Department shall be provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board of Supervisors.
3. After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision, and any other recommendation of the Contractor Hearing Board shall be presented to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.
4. If a Contractor has been debarred for a period longer than five (5) years, that Contractor may after the debarment has been in effect for at least five (5) years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. The District may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that the Contractor has adequately demonstrated one or more of the following: (1) elimination

of the grounds for which the debarment was imposed; (2) a bona fide change in ownership or management; (3) material evidence discovered after debarment was imposed; or (4) any other reason that is in the best interests of the District.

5. The Contractor Hearing Board will consider a request for review of a debarment determination only where (1) the Contractor has been debarred for a period longer than five (5) years; (2) the debarment has been in effect for at least five (5) years; and (3) the request is in writing, states one or more of the grounds for reduction of the debarment period or termination of the debarment, and includes supporting documentation. Upon receiving an appropriate request, the Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, the Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment hearing.
6. The Contractor Hearing Board's proposed decision shall contain a recommendation on the request to reduce the period of debarment or terminate the debarment. The Contractor Hearing Board shall present its proposed decision and recommendation to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

#### **8.12.5 Subcontractors of Contractor**

These terms shall also apply to Subcontractors of District Contractors.

### **8.13 CONTRACTOR'S ACKNOWLEDGEMENT OF DISTRICT'S COMMITMENT TO THE SAFELY SURRENDERED BABY LAW**

The Contractor acknowledges that the District places a high priority on the implementation of the Safely Surrendered Baby Law. The Contractor understands that it is the District's policy to encourage all District Contractors to voluntarily post the District's "Safely Surrendered Baby Law" poster in a prominent position at the Contractor's place of business. The Contractor will also encourage its Subcontractors, if any, to post this poster in a prominent position in the Subcontractor's place of business. The County's Department of Children and Family Services will supply the Contractor with the poster to be used. Information on how to receive the poster can be found on the Internet at [www.babysafela.org](http://www.babysafela.org).

### **8.14 CONTRACTOR'S WARRANTY OF ADHERENCE TO DISTRICT'S CHILD SUPPORT COMPLIANCE PROGRAM**

8.14.1 The Contractor acknowledges that the District has established a goal of ensuring that all individuals who benefit financially from the District through Contract are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon the District and its taxpayers.

8.14.2 As required by the County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting the Contractor's duty under this Contract to comply with all applicable provisions of law, the Contractor warrants that it is now in compliance and shall during the term of this Contract maintain in compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or Child Support Services Department Notices of Wage and Earnings Assignment for Child, Family or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

#### **8.15 DISTRICT'S QUALITY ASSURANCE PLAN**

The District or its agent will evaluate the Contractor's performance under this Contract on not less than an annual basis. Such evaluation will include assessing the Contractor's compliance with all Contract terms and conditions and performance standards. Contractor deficiencies which the District determines are severe or continuing and that may place performance of the Contract in jeopardy if not corrected will be reported to the Board of Supervisors. The report will include improvement/corrective action measures taken by the District and the Contractor. If improvement does not occur consistent with the corrective action measures, the District may terminate this Contract or impose other penalties as specified in this Contract.

#### **8.16 DAMAGE TO DISTRICT FACILITIES, BUILDINGS OR GROUNDS**

8.16.1 The Contractor shall repair, or cause to be repaired, at its own cost, any and all damage to District facilities, buildings, or grounds caused by the Contractor or employees or agents of the Contractor. Such repairs shall be made immediately after the Contractor has become aware of such damage, but in no event later than thirty (30) days after the occurrence.

8.16.2 If the Contractor fails to make timely repairs, District may make any necessary repairs. All costs incurred by District, as determined by District, for such repairs shall be repaid by the Contractor by cash payment upon demand.

#### **8.17 EMPLOYMENT ELIGIBILITY VERIFICATION**

8.17.1 The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirements set forth in Federal and State statutes and regulations. The Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by



Federal and State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, (P.L. 99-603), or as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period prescribed by law.

- 8.17.2 The Contractor shall indemnify, defend, and hold harmless, the District, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the District or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.

#### **8.18 FACSIMILE REPRESENTATIONS**

The District and the Contractor hereby agree to regard facsimile representations of original signatures of authorized officers of each party, when appearing in appropriate places on the Amendments prepared pursuant to sub-paragraph 8.1, and received via communications facilities, as legally sufficient evidence that such original signatures have been affixed to Amendments to this Contract, such that the parties need not follow up facsimile transmissions of such documents with subsequent (non-facsimile) transmission of "original" versions of such documents.

#### **8.19 FAIR LABOR STANDARDS**

The Contractor shall comply with all applicable provisions of the Federal Fair Labor Standards Act and shall indemnify, defend, and hold harmless the District and its agents, officers, and employees from any and all liability, including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorneys' fees arising under any wage and hour law, including, but not limited to, the Federal Fair Labor Standards Act, for work performed by the Contractor's employees for which the District may be found jointly or solely liable.

## **8.20 FORCE MAJEURE**

- 8.20.1 Neither party shall be liable for such party's failure to perform its obligations under and in accordance with this *Contract*, if such failure arises out of fires, floods, epidemics, quarantine restrictions, other natural occurrences, strikes, lockouts (other than a lockout by such party or any of such party's subcontractors), freight embargoes, or other similar events to those described above, but in every such case the failure to perform must be totally beyond the control and without any fault or negligence of such party (such events are referred to in this sub-paragraph as "force majeure events").
- 8.20.2 Notwithstanding the foregoing, a default by a subcontractor of Contractor shall not constitute a force majeure event, unless such default arises out of causes beyond the control of both Contractor and such subcontractor, and without any fault or negligence of either of them. In such case, Contractor shall not be liable for failure to perform, unless the goods or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Contractor to meet the required performance schedule. As used in this sub-paragraph, the term "subcontractor" and "subcontractors" mean subcontractors at any tier.
- 8.20.3 In the event Contractor's failure to perform arises out of a force majeure event, Contractor agrees to use commercially reasonable best efforts to obtain goods or services from other sources, if applicable, and to otherwise mitigate the damages and reduce the delay caused by such force majeure event.

## **8.21 GOVERNING LAW, JURISDICTION, AND VENUE**

This Contract shall be governed by, and construed in accordance with, the laws of the State of California. The Contractor agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this Contract and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of Los Angeles.

## **8.22 INDEPENDENT CONTRACTOR STATUS**

- 8.22.1 This Contract is by and between the District and the Contractor and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between the District and the Contractor. The employees and agents of one party shall not be, or be construed to be, the employees or agents of the other party for any purpose whatsoever.
- 8.22.2 The Contractor shall be solely liable and responsible for providing to, or on behalf of, all persons performing work pursuant to this Contract all compensation and benefits. The District shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, Federal, State, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of the Contractor.
- 8.22.3 The Contractor understands and agrees that all persons performing work pursuant to this Contract are, for purposes of Workers' Compensation liability, solely employees of the Contractor and not employees of the District. The Contractor shall be solely liable and responsible for furnishing any and all Workers' Compensation benefits to any person as a result of any injuries arising from or connected with any work performed by or on behalf of the Contractor pursuant to this Contract.
- 8.22.4 The Contractor shall adhere to the provisions stated in subparagraph 7.5 - Confidentiality.

## **8.23 INDEMNIFICATION**

The Contractor shall indemnify, defend and hold harmless the District, County, its Special Districts, elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or connected with the

Contractor's acts and/or omissions arising from and/or relating to this Contract.

## **8.24 GENERAL INSURANCE REQUIREMENTS**

Without limiting the Contractor's indemnification of the District and during the term of this Contract, the Contractor shall provide and maintain, and shall require all of its Subcontractors to maintain, the following programs of insurance specified in this Contract. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by the District. Such coverage shall be provided and maintained at the Contractor's own expense.

**8.24.1 Evidence of Insurance:** Certificate(s) or other evidence of coverage satisfactory to the County shall be delivered to:

Consolidated Fire Protection District of Los Angeles County  
5801 S. Eastern Avenue, Suite 100  
Commerce, California 90040-4001  
Attn: Contracts Section

prior to commencing services under this Contract. Such certificates or other evidence shall:

- Specifically identify this Contract;
- Clearly evidence all coverages required in this Contract;
- Contain the express condition that the District is to be given written notice by mail at least thirty (30) days in advance of cancellation or adverse material change for all policies evidenced on the certificate of insurance;
- Include copies of the additional insured endorsement to the general liability, aviation comprehensive general liability and aircraft liability policies, adding the County of Los Angeles, its Special Districts, its officials, officers and employees as insured for all activities arising from this Contract; and
- Include a waiver of subrogation, as respects aircraft physical damage (aka hull) coverage, in favor the County of Los

Angeles, its Special districts, its officials, officers and employees.

- Identify any deductibles or self-insured retentions for the District's approval. The District retains the right to require the Contractor to reduce or eliminate such deductibles or self-insured retentions as they apply to the District, or, require the Contractor to provide a bond guaranteeing payment of all such retained losses and related costs, including, but not limited to, expenses or fees, or both, related to investigations, claims administrations, and legal defense. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

**8.24.2 Insurer Financial Ratings:** Insurance is to be provided by an insurance company acceptable to the District with an A.M. Best rating of not less than A:VII unless otherwise approved by the District.

**8.24.3 Failure to Maintain Coverage:** Failure by the Contractor to maintain the required insurance, or to provide evidence of insurance coverage acceptable to the District, shall constitute a material breach of the Contract upon which the District may immediately terminate or suspend this Contract. The District, at its sole option, may obtain damages from the Contractor resulting from said breach. Alternatively, the District may purchase such required insurance coverage, and without further notice to the Contractor, the District may deduct from sums due to the Contractor any premium costs advanced by the District for such insurance.

**8.24.4 Notification of Incidents, Claims or Suits: Contractor shall report to the County:**

- Any accident or incident relating to services performed under this Contract which involves injury or property damage which may result in the filing of a claim or lawsuit against the Contractor and/or the District. Such

report shall be made in writing within 24 hours of occurrence.

- Any third party claim or lawsuit filed against the Contractor arising from or related to services performed by the Contractor under this Contract.
- Any injury to a Contractor employee that occurs on District property. This report shall be submitted on a County "Non-employee Injury Report" to the District's Contract Project Manager.
- Any loss, disappearance, destruction, misuse, or theft of any kind whatsoever of District property, monies or securities entrusted to the Contractor under the terms of this Contract.

**8.24.5 Compensation for District Costs:** In the event that the Contractor fails to comply with any of the indemnification or insurance requirements of this Contract, and such failure to comply results in any costs to the District, the Contractor shall pay full compensation for all costs incurred by the District.

**8.24.6 Insurance Coverage Requirements for Subcontractors:** The Contractor shall ensure any and all Subcontractors performing services under this Contract meet the insurance requirements of this Contract by either:

- The Contractor providing evidence of insurance covering the activities of Subcontractors, or
- The Contractor providing evidence submitted by Subcontractors evidencing that Subcontractors maintain the required insurance coverage. The District retains the right to obtain copies of evidence of Subcontractor insurance coverage at any time.

## **8.25 INSURANCE COVERAGE REQUIREMENTS**

**8.25.1 General Liability** insurance written on ISO policy form CG 00 01 or its equivalent with limits of not less than the following:

|   |                    |
|---|--------------------|
| <i>General Aggregate:</i>                       | <i>\$2 million</i> |
| <i>Products/Completed Operations Aggregate:</i> | <i>\$1 million</i> |

*Personal and Advertising Injury:* \$1 million  
*Each Occurrence:* \$1 million

#### **8.25.2 Aviation Comprehensive General Liability**

Insurance with combined single limits of not less than the following including standard war, hi-jacking and other perils write-back endorsement and a severability of interest clause providing that such policy shall operate in the same manner as if there were separate policy covering each insured:

*Premises and Contractual Liability* \$50 million/occurrence  
*Products/Completed Operations* \$50 million/occurrence/  
annual aggregate  
*Personal and Advertising Injury* \$50 million/offense/  
annual aggregate  
*Hangerkeepers Liability* \$50 million/aircraft

#### **8.25.3 AIRCRAFT Liability (Including Personal Injury Liability, Contractual Liability and Liability for Damage to Non-Owned Hangars/Contents)**

Insurance with a combined single limit for all bodily/personal injury(including as respects passengers/occupants carried within or suspended from the aircraft) and property damage of not less than \$50,000,00 (except \$10,000,000. as respects liability for damage to non-owned hangars/contents) each occurrence/offense (and in the annual aggregate as respects personal injury). Such insurance shall include the standard war, hi-jacking and other perils write-back endorsement and a severability of interest clause providing that such policy shall operate in the same manner as if there were separate policy covering each insured.

#### **8.25.4 Aircraft Physical Damage (aka Hull) Coverage**

Contractor is insured for aircraft physical damage (aka hull), coverage, including the standard war, hi-jacking and other perils write-back endorsement, for each Helitanker (including all parts and equipment used in connection with said Helitanker, whether

attached or detached) and shall notify District, in writing, of said coverage prior to commencing services under this Contract.

**8.25.5 Automobile Liability** written on ISO policy form CA 0001 or its equivalent with a limit of liability of not less than \$1 million for each accident. Such insurance shall include coverage for all “owned”, “hired” and “non-owned” vehicles, or coverage for “any auto”.

**8.25.6 Workers’ Compensation and Employers’ Liability** insurance providing workers’ compensation benefits, as required by the Labor Code of the State of California or by any other state, and for which the Contractor is responsible. If the Contractor’s employees will be engaged in maritime employment, coverage shall provide workers’ compensation benefits as required by the U.S. Longshore and Harbor Workers’ Compensation Act, Jones Act or any other federal law for which the Contractor is responsible.

In all cases, the above insurance also shall include Employers’ Liability coverage with limits of not less than the following:

|                                 |                    |
|---------------------------------|--------------------|
| <i>Each Accident:</i>           | <i>\$1 million</i> |
| <i>Disease - policy limit:</i>  | <i>\$1 million</i> |
| <i>Disease - each employee:</i> | <i>\$1 million</i> |

## **8.26 LIQUIDATED DAMAGES**

8.26.1 If, in the judgment of the District, the Contractor is deemed to be non-compliant with the terms and obligations assumed hereby, the District, or his/her designee, at his/her option, in addition to, or in lieu of, other remedies provided herein, may withhold the entire monthly payment or deduct pro rata from the Contractor’s invoice for work not performed. A description of the work not performed and the amount to be withheld or deducted from payments to the Contractor from the District, will be forwarded to the Contractor by the District, or his/her designee, in a written notice describing the reasons for said action.



8.26.2 If the District, or his/her designee, determines that there are deficiencies in the performance of this Contract that the District, or his/her designee, deems are correctable by the Contractor over a certain time span, the District, or his/her designee, will provide a written notice to the Contractor to correct the deficiency within specified time frames. Should the Contractor fail to correct deficiencies within said time frame, the District, or his/her designee, may:

(a) Deduct from the Contractor's payment, pro rata, those applicable portions of the Monthly Contract Sum; and/or

(b) Deduct liquidated damages. The parties agree that it will be impracticable or extremely difficult to fix the extent of actual damages resulting from the failure of the Contractor to correct a deficiency within the specified time frame. The parties hereby agree that under the current circumstances a reasonable estimate of such damages is One Hundred Dollars (\$100) per day per infraction, or as specified in the *Performance Requirements Summary (PRS) Chart*, as defined in *Appendix C, Technical Exhibit 2*, hereunder, and that the Contractor shall be liable to the District for liquidated damages in said amount. Said amount shall be deducted from the District's payment to the Contractor; and/or

(c) Upon giving five (5) days notice to the Contractor for failure to correct the deficiencies, the District may correct any and all deficiencies and the total costs incurred by the District for completion of the work by an alternate source, whether it be District forces or separate private contractor, will be deducted and forfeited from the payment to the Contractor from the District, as determined by the District.

8.26.3 The action noted in sub-paragraph 8.26.2 shall not be construed as a penalty, but as adjustment of payment to the Contractor to recover the District cost due to the failure of the Contractor to complete or comply with the provisions of this Contract.

8.26.4 This sub-paragraph shall not, in any manner, restrict or limit the District's right to damages for any breach of this Contract provided by law or as specified in the PRS or sub-paragraph 8.26.2, and shall not, in any manner, restrict or limit the District's right to terminate this Contract as agreed to herein.

## **8.27 MOST FAVORED PUBLIC ENTITY**

If the Contractor's prices decline, or should the Contractor at any time during the term of this Contract provide the same goods or services under similar quantity and delivery conditions to the State of California or any county, municipality, or district of the State at prices below those set forth in this Contract, then such lower prices shall be immediately extended to the District.

## **8.28 NONDISCRIMINATION AND AFFIRMATIVE ACTION**

8.28.1 The Contractor certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and shall be treated equally without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations.

8.28.2 The Contractor shall certify to, and comply with, the provisions of *Exhibit C - Contractor's EEO Certification*.

8.28.3 The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations. Such action shall include, but is not limited to: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

- 8.28.4 The Contractor certifies and agrees that it will deal with its subcontractors, bidders, or vendors without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation.
- 8.28.5 The Contractor certifies and agrees that it, its affiliates, subsidiaries, or holding companies shall comply with all applicable Federal and State laws and regulations to the end that no person shall, on the grounds of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Contract or under any project, program, or activity supported by this Contract.
- 8.28.6 The Contractor shall allow District representatives access to the Contractor's employment records during regular business hours to verify compliance with the provisions of this sub-paragraph 8.28 when so requested by the District.
- 8.28.7 If the District finds that any provisions of this sub-paragraph 8.28 have been violated, such violation shall constitute a material breach of this Contract upon which the District may terminate or suspend this Contract. While the District reserves the right to determine independently that the anti-discrimination provisions of this Contract have been violated, in addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that the Contractor has violated Federal or State anti-discrimination laws or regulations shall constitute a finding by the District that the Contractor has violated the anti-discrimination provisions of this Contract.
- 8.28.8 The parties agree that in the event the Contractor violates any of the anti-discrimination provisions of this Contract, the District shall, at its sole option, be entitled to the sum of Five Hundred Dollars (\$500) for each such violation pursuant to California Civil

Code Section 1671 as liquidated damages in lieu of terminating or suspending this Contract.

**8.29 NON EXCLUSIVITY**

Nothing herein is intended nor shall be construed as creating any exclusive arrangement with the Contractor. This Contract shall not restrict District from acquiring similar, equal or like goods and/or services from other entities or sources.

**8.30 NOTICE OF DELAYS**

Except as otherwise provided under this Contract, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Contract, that party shall, within one (1) business day, give notice thereof, including all relevant information with respect thereto, to the other party.

**8.31 NOTICE OF DISPUTES**

The Contractor shall bring to the attention of the District's Contract Administrator and/or District's Contract Director any dispute between the District and the Contractor regarding the performance of services as stated in this Contract. If the District's Contract Administrator or District's Contract Director is not able to resolve the dispute, the Fire Chief, or designee shall resolve it.

**8.32 NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT**

The Contractor shall notify its employees, and shall require each Subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice No. 1015.

### **8.33 NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW**

The Contractor shall notify and provide to its employees, and shall require each Subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is set forth in *Exhibit H* of this Contract and is also available on the Internet at [www.babysafela.org](http://www.babysafela.org) for printing purposes.

### **8.34 NOTICES**

All notices or demands required or permitted to be given or made under this Contract shall be in writing and shall be hand delivered with signed receipt or mailed by first-class registered or certified mail, postage prepaid, addressed to the parties as identified in *Exhibits D – District's Administration and E - Contractor's Administration*. Addresses may be changed by either party giving ten (10) days' prior written notice thereof to the other party. The District's Contract Administrator shall have the authority to issue all notices or demands required or permitted by the District under this Contract.

### **8.35 PROHIBITION AGAINST INDUCEMENT OR PERSUASION**

Notwithstanding the above, the Contractor and the District agree that, during the term of this Contract and for a period of one year thereafter, neither party shall in any way intentionally induce or persuade any employee of one party to become an employee or agent of the other party. No bar exists against any hiring action initiated through a public announcement.

### **8.36 PUBLIC RECORDS ACT**

8.36.1 Any documents submitted by the Contractor; all information obtained in connection with the District's right to audit and inspect the Contractor's documents, books, and accounting records pursuant to sub-paragraph 8.38 - Record Retention and Inspection/Audit Settlement of this Contract; as well as those

documents which were required to be submitted in response to the Invitation for Bids (IFB) used in the solicitation process for this Contract, become the exclusive property of the District. All such documents become a matter of public record and shall be regarded as public records. Exceptions will be those elements in the California Government Code Section 6250 et seq. (Public Records Act) and which are marked "trade secret", "confidential", or "proprietary". The District shall not in any way be liable or responsible for the disclosure of any such records including, without limitation, those so marked, if disclosure is required by law, or by an order issued by a court of competent jurisdiction.

- 8.36.2 In the event the District is required to defend an action on a Public Records Act request for any of the aforementioned documents, information, books, records, and/or contents of a proposal marked "trade secret", "confidential", or "proprietary", the Contractor agrees to defend and indemnify the District from all costs and expenses, including reasonable attorney's fees, in action or liability arising under the Public Records Act.

### **8.37 PUBLICITY**

- 8.37.1 The Contractor shall not disclose any details in connection with this Contract to any person or entity except as may be otherwise provided hereunder or required by law. However, in recognizing the Contractor's need to identify its services and related clients to sustain itself, the County shall not inhibit the Contractor from publishing its role under this Contract within the following conditions:

- The Contractor shall develop all publicity material in a professional manner; and
- During the term of this Contract, the Contractor shall not, and shall not authorize another to, publish or disseminate any commercial advertisements, press releases, feature articles, or other materials using the name of the District without the prior written consent of the District's Contract

Director. The District shall not unreasonably withhold written consent.

8.37.2 The Contractor may, without the prior written consent of District, indicate in its proposals and sales materials that it has been awarded this Contract with the County of Los Angeles, provided that the requirements of this sub-paragraph 8.37 shall apply.

### **8.38 RECORD RETENTION AND INSPECTION/AUDIT SETTLEMENT**

The Contractor shall maintain accurate and complete financial records of its activities and operations relating to this Contract in accordance with generally accepted accounting principles. The Contractor shall also maintain accurate and complete employment and other records relating to its performance of this Contract. The Contractor agrees that the District, or its authorized representatives, shall have access to and the right to examine, audit, excerpt, copy, or transcribe any pertinent transaction, activity, or record relating to this Contract. All such material, including, but not limited to, all financial records, bank statements, cancelled checks or other proof of payment, timecards, sign-in/sign-out sheets and other time and employment records, and proprietary data and information, shall be kept and maintained by the Contractor and shall be made available to the District during the term of this Contract and for a period of five (5) years thereafter unless the District's written permission is given to dispose of any such material prior to such time. All such material shall be maintained by the Contractor at a location in Los Angeles County, provided that if any such material is located outside Los Angeles County, then, at the District's option, the Contractor shall pay the District for travel, per diem, and other costs incurred by the District to examine, audit, excerpt, copy, or transcribe such material at such other location.

8.38.1 In the event that an audit of the Contractor is conducted specifically regarding this Contract by any Federal or State auditor, or by any auditor or accountant employed by the Contractor or otherwise, then the Contractor shall file a copy of such audit report with the County's Auditor-Controller within thirty (30) days of the Contractor's receipt thereof, unless otherwise

provided by applicable Federal or State law or under this Contract. Subject to applicable law, the District shall make a reasonable effort to maintain the confidentiality of such audit report(s).

8.38.2 Failure on the part of the Contractor to comply with any of the provisions of this sub-paragraph 8.38 shall constitute a material breach of this Contract upon which the District may terminate or suspend this Contract.

8.38.3 If, at any time during the term of this Contract or within five (5) years after the expiration or termination of this Contract, representatives of the District conduct an audit of the Contractor regarding the work performed under this Contract, and if such audit finds that the District's dollar liability for any such work is less than payments made by the District to the Contractor, then the difference shall be either: a) repaid by the Contractor to the District by cash payment upon demand or b) at the sole option of the County's Auditor-Controller, deducted from any amounts due to the Contractor from the District, whether under this Contract or otherwise. If such audit finds that the District's dollar liability for such work is more than the payments made by the District to the Contractor, then the difference shall be paid to the Contractor by the District by cash payment, provided that in no event shall the District's maximum obligation for this Contract exceed the funds appropriated by the District for the purpose of this Contract.

### **8.39 RECYCLED BOND PAPER**

Consistent with the Board of Supervisors' policy to reduce the amount of solid waste deposited at the County landfills, the Contractor agrees to use recycled-content paper to the maximum extent possible on this Contract.

### **8.40 SUBCONTRACTING**

8.40.1 The requirements of this Contract may not be subcontracted by the Contractor **without the advance approval of the District**. Any attempt by the Contractor to subcontract without the prior



consent of the District may be deemed a material breach of this Contract.

8.40.2 If the Contractor desires to subcontract, the Contractor shall provide the following information promptly at the District's request:

- A description of the work to be performed by the Subcontractor;
- A draft copy of the proposed subcontract; and
- Other pertinent information and/or certifications requested by the District.

8.40.3 The Contractor shall indemnify and hold the District harmless with respect to the activities of each and every Subcontractor in the same manner and to the same degree as if such Subcontractor(s) were the Contractor employees.

8.40.4 The Contractor shall remain fully responsible for all performances required of it under this Contract, including those that the Contractor has determined to subcontract, notwithstanding the District's approval of the Contractor's proposed subcontract.

8.40.5 The District's consent to subcontract shall not waive the District's right to prior and continuing approval of any and all personnel, including Subcontractor employees, providing services under this Contract. The Contractor is responsible to notify its Subcontractors of this District right.

8.40.6 The District Contract Director is authorized to act for and on behalf of the District with respect to approval of any subcontract and Subcontractor employees. After approval of the subcontract by the District, Contractor shall forward a fully executed subcontract to the District for their files.

8.40.7 The Contractor shall be solely liable and responsible for all payments or other compensation to all Subcontractors and their officers, employees, agents, and successors in interest arising through services performed hereunder, notwithstanding the District's consent to subcontract.

8.40.8 The Contractor shall obtain certificates of insurance, which establish that the Subcontractor maintains all the programs of

insurance required by the District from each approved Subcontractor. The Contractor shall ensure delivery of all such documents to:

Consolidated Fire Protection District of Los Angeles County  
5801 S. Eastern Avenue, Suite #100  
Commerce, California 90040-4001  
Attn: Contracts Section

before any Subcontractor employee may perform any work hereunder.

#### **8.41 TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH DISTRICT'S CHILD SUPPORT COMPLIANCE PROGRAM**

Failure of the Contractor to maintain compliance with the requirements set forth in sub-paragraph 8.14 - Contractor's Warranty of Adherence to District's Child Support Compliance Program, shall constitute default under this Contract. Without limiting the rights and remedies available to the District under any other provision of this Contract, failure of the Contractor to cure such default within ninety (90) calendar days of written notice shall be grounds upon which the District may terminate this Contract pursuant to sub-paragraph 8.43 - Termination for Default and pursue debarment of the Contractor, pursuant to County Code Chapter 2.202.

#### **8.42 TERMINATION FOR CONVENIENCE**

8.42.1 This Contract may be terminated, in whole or in part, from time to time, when such action is deemed by the District, in its sole discretion, to be in its best interest. Termination of work hereunder shall be effected by notice of termination to the Contractor specifying the extent to which performance of work is terminated and the date upon which such termination becomes effective. The date upon which such termination becomes effective shall be no less than ten (10) days after the notice is sent.

8.42.2 After receipt of a notice of termination and except as otherwise

directed by the District, the Contractor shall:

- Stop work under this Contract on the date and to the extent specified in such notice, and
- Complete performance of such part of the work as shall not have been terminated by such notice.

8.42.3 All material including books, records, documents, or other evidence bearing on the costs and expenses of the Contractor under this Contract shall be maintained by the Contractor in accordance with sub-paragraph 8.38, Record Retention & Inspection/Audit Settlement.

### **8.43 TERMINATION FOR DEFAULT**

8.43.1 The District may, by written notice to the Contractor, terminate the whole or any part of this Contract, if, in the judgment of District Contract Director:

- Contractor has materially breached this Contract; or
- Contractor fails to timely provide and/or satisfactorily perform any task, deliverable, service, or other work required either under this Contract; or
- Contractor fails to demonstrate a high probability of timely fulfillment of performance requirements under this Contract, or of any obligations of this Contract and in either case, fails to demonstrate convincing progress toward a cure within five (5) working days (or such longer period as the District may authorize in writing) after receipt of written notice from the District specifying such failure.

8.43.2 In the event that the District terminates this Contract in whole or in part as provided in sub-paragraph 8.43.1, the District may procure, upon such terms and in such manner as the District may deem appropriate, goods and services similar to those so terminated. The Contractor shall be liable to the District for any and all excess costs incurred by the District, as determined by the District, for such similar goods and services. The Contractor shall

continue the performance of this Contract to the extent not terminated under the provisions of this sub-paragraph.

8.43.3 Except with respect to defaults of any Subcontractor, the Contractor shall not be liable for any such excess costs of the type identified in sub-paragraph 8.43.2 if its failure to perform this Contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not limited to: acts of God or of the public enemy, acts of the District in either its sovereign or contractual capacity, acts of Federal or State governments in their sovereign capacities, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case, the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a Subcontractor, and if such default arises out of causes beyond the control of both the Contractor and Subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any such excess costs for failure to perform, unless the goods or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance schedule. As used in this sub-paragraph 8.43.3, the terms "Subcontractor" and "Subcontractors" mean Subcontractor(s) at any tier.

8.43.4 If, after the District has given notice of termination under the provisions of this sub-paragraph 8.43, it is determined by the District that the Contractor was not in default under the provisions of this sub-paragraph 8.43, or that the default was excusable under the provisions of sub-paragraph 8.43.3, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to sub-paragraph 8.42 - Termination for Convenience.

- 8.43.5 The rights and remedies of the District provided in this subparagraph 8.43 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

#### **8.44 TERMINATION FOR IMPROPER CONSIDERATION**

- 8.44.1 The District may, by written notice to the Contractor, immediately terminate the right of the Contractor to proceed under this Contract if it is found that consideration, in any form, was offered or given by the Contractor, either directly or through an intermediary, to any District officer, employee, or agent with the intent of securing this Contract or securing favorable treatment with respect to the award, amendment, or extension of this Contract or the making of any determinations with respect to the Contractor's performance pursuant to this Contract. In the event of such termination, the District shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of default by the Contractor.
- 8.44.2 The Contractor shall immediately report any attempt by a District officer or employee to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (800) 544-6861.
- 8.44.3 Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

#### **8.45 TERMINATION FOR INSOLVENCY**

- 8.45.1 The District may terminate this Contract forthwith in the event of the occurrence of any of the following:
- Insolvency of the Contractor. The Contractor shall be deemed to be insolvent if it has ceased to pay its debts for at least sixty (60) days in the ordinary course of business or cannot pay its debts as they become due, whether or not a petition has been filed under the Federal Bankruptcy Code

and whether or not the Contractor is insolvent within the meaning of the Federal Bankruptcy Code;

- The filing of a voluntary or involuntary petition regarding the Contractor under the Federal Bankruptcy Code;
- The appointment of a Receiver or Trustee for the Contractor; or
- The execution by the Contractor of a general assignment for the benefit of creditors.

8.45.2 The rights and remedies of the District provided in this subparagraph 8.45 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

#### **8.46 TERMINATION FOR NON-ADHERENCE OF COUNTY LOBBYIST ORDINANCE**

The Contractor, and each County Lobbyist or County Lobbying firm as defined in County Code Section 2.160.010 retained by the Contractor, shall fully comply with the County's Lobbyist Ordinance, County Code Chapter 2.160. Failure on the part of the Contractor or any County Lobbyist or County Lobbying firm retained by the Contractor to fully comply with the County's Lobbyist Ordinance shall constitute a material breach of this Contract, upon which the County may in its sole discretion, immediately terminate or suspend this Contract.

#### **8.47 TERMINATION FOR NON-APPROPRIATION OF FUNDS**

Notwithstanding any other provision of this Contract, the District shall not be obligated for the Contractor's performance hereunder or by any provision of this Contract during any of the District's future fiscal years unless and until the County's Board of Supervisors appropriates funds for this Contract in the County's Budget for each such future fiscal year. In the event that funds are not appropriated for this Contract, then this Contract shall terminate as of June 30 of the last fiscal year for which funds were appropriated. The District shall notify the Contractor in writing of any such non-allocation of funds at the earliest possible date.

#### **8.48 VALIDITY**

If any provision of this Contract or the application thereof to any person or circumstance is held invalid, the remainder of this Contract and the application of such provision to other persons or circumstances shall not be affected thereby.

#### **8.49 WAIVER**

No waiver by the District of any breach of any provision of this Contract shall constitute a waiver of any other breach or of such provision. Failure of the District to enforce at any time, or from time to time, any provision of this Contract shall not be construed as a waiver thereof. The rights and remedies set forth in this sub-paragraph 8.49 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

#### **8.50 WARRANTY AGAINST CONTINGENT FEES**

8.50.1 The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon any Contract or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business.

8.50.2 For breach of this warranty, the District shall have the right to terminate this Contract and, at its sole discretion, deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

### **9.0 UNIQUE TERMS AND CONDITIONS**

#### **9.1 LOCAL SMALL BUSINESS ENTERPRISE (SBE) PREFERENCE PROGRAM**

9.1.1 This Contract is subject to the provisions of the County's ordinance entitled Local Small Business Enterprise Preference

Program, as codified in Chapter 2.204 of the Los Angeles County Code.

9.1.2 The Contractor shall not knowingly and with the intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a Local Small Business Enterprise.

9.1.3 The Contractor shall not willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a District, County official or employee for the purpose of influencing the certification or denial of certification of any entity as a Local Small Business Enterprise.

9.1.4 If the Contractor has obtained certification as a Local Small Business Enterprise by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded this contract to which it would not otherwise have been entitled, shall:

1. Pay to the County any difference between the contract amount and what the County's costs would have been if the contract had been properly awarded;
2. In addition to the amount described in subdivision (1), be assessed a penalty in an amount of not more than 10 percent of the amount of the contract; and
3. Be subject to the provisions of Chapter 2.202 of the Los Angeles County Code (Determinations of Contractor Non-responsibility and Contractor Debarment).

The above penalties shall also apply to any business that has previously obtained proper certification, however, as a result of a change in their status would no longer be eligible for certification, and fails to notify the state and OAAC of this



information prior to responding to a solicitation or accepting a contract award.

## **9.2 TRANSITIONAL JOB OPPORTUNITIES PREFERENCE PROGRAM**

- 9.2.1 This Contract is subject to the provisions of the County's ordinance entitled Transitional Job Opportunities Preference Program, as codified in Chapter 2.205 of the Los Angeles County Code.
- 9.2.2 Contractor shall not knowingly and with the intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a Transitional Job Opportunity vendor.
- 9.2.3 Contractor shall not willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a County official or employee for the purpose of influencing the certification or denial of certification of any entity as a Transitional Job Opportunity vendor.
- 9.2.4 If Contractor has obtained County certification as a Transitional Job Opportunity vendor by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded this contract to which it would not otherwise have been entitled, shall:
  - 1. Pay to the County any difference between the contract amount and what the County's costs would have been if the contract had been properly awarded;
  - 2. In addition to the amount described in subdivision (1), be assessed a penalty in an amount of not more than 10 percent (10%) of the amount of the contract; and

3. Be subject to the provisions of Chapter 2.202 of the Los Angeles County Code (Determinations of Contractor Non-responsibility and Contractor Debarment).

The above penalties shall also apply to any entity that has previously obtained proper certification, however, as a result of a change in their status would no longer be eligible for certification, and fails to notify the certifying department of this information prior to responding to a solicitation or accepting a contract award.

IN WITNESS WHEREOF, Contractor has executed this Contract, or caused it to be duly executed and the County of Los Angeles, by order of its Board of Supervisors has caused this Contract to be executed on its behalf by the Chair of said Board and attested by the Executive Officer-Clerk of the Board of Supervisors thereof, the day and year first above written.

ERICKSON AIR-CRANE INCORPORATED

By

Name

Director Marketing  
Title

CONSOLIDATED FIRE PROTECTION  
DISTRICT OF LOS ANGELES COUNTY

By

Chair, Board of Supervisors

ATTEST:

SACHI HAMAI  
Executive Officer-Clerk  
of the Board of Supervisors

By \_\_\_\_\_

APPROVED AS TO FORM:

Raymond G. Fortner, Jr.  
County Counsel

By

Senior Deputy County Counsel

**LEASE OF HELITANKER  
PRICE SHEET**Business Name Erickson Air-Crane IncorporatedAddress 3100 Willow Springs RoadP.O. Box 3247City Central Point State OR Zip 97502Contact Name Patricia PilollaPhone # (541) 664-5544 Fax # (541) 664-946924-Hour Contact Patricia Pilolla Toll Free # 1-800-424-2413Business Days & Hours Mon - Fri 8:00 - 5:00WEBVEN Vendor # (REQUIRED): # 51792301REGISTER AT: [http://lacounty.info/doing\\_business/main\\_db.htm](http://lacounty.info/doing_business/main_db.htm)***Hourly Flight Rate***

The hourly rate to be periodically adjusted upward or downward based on the published hourly rate by the United State Department of Agriculture, United States Forest Service, applicable to the S-64 Helicopter, and adjusted as adjusted by the USDA/USFS through the term of this contract.

***Current USDA/USFS rate for the S-64 as of May 15, 2008:******\$7,145 per flight hour***

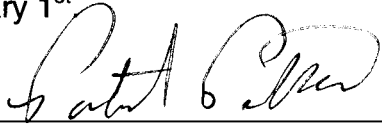
An amendment will be issued to change the Hourly Flight Rate.

### **Daily Rate**

In Lieu of a firm fixed price for the duration of the contract to include the two option years and in lieu of the suggested CPI increase over the two option years, a fixed rate on a per year basis with a predetermined escalation rate as a firm fixed price on a per year basis over the duration the *contract to include the two option years*.

| <b>Year</b>       | <b>2008</b>     | <b>2009</b>     | <b>2010</b>     | <b>2011</b>     | <b>2012</b>     |
|-------------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| <b>Daily Rate</b> | <b>\$17,900</b> | <b>\$19,250</b> | <b>\$20,700</b> | <b>\$22,250</b> | <b>\$23,900</b> |

The above table reflects the daily rates being bid and which will be in effect on a calendar year basis. For example, the daily rate for a given year will be in effect through December 31<sup>st</sup>, and the increased rate for the next year will take effect January 1<sup>st</sup>

By 

Title Director Marketing

Date 13-June-2008

**LOS ANGELES COUNTY - COMMUNITY BUSINESS ENTERPRISE PROGRAM (CBE)  
REQUEST FOR LOCAL SBE PREFERENCE PROGRAM CONSIDERATION AND  
CBE FIRM/ORGANIZATION INFORMATION FORM**

**INSTRUCTIONS:** All bidders responding to this solicitation must complete and return this form for proper consideration of the bid.

**I. LOCAL SMALL BUSINESS ENTERPRISE PREFERENCE PROGRAM:**

Firm Name: Erickson Air-Crane Inc.  
☒ I AM NOT ☐ I AM ☐ A Local SBE certified by the County of Los Angeles Office of Affirmative Action Compliance as of the date of this bid submission.  
☐ As an eligible Local SBE, I request this bid be considered for the Local SBE Preference.  
 My County (WebVen) Vendor Number : \_\_\_\_\_

**II. FIRM/ORGANIZATION INFORMATION:** The information requested below is for statistical purposes only. On final analysis and consideration of award, contractor/vendor will be selected without regard to race/ethnicity, color, religion, sex, national origin, age, sexual orientation or disability.

| Business Structure:   | <input type="checkbox"/> Sole Proprietorship          | <input type="checkbox"/> Partnership | <input checked="" type="checkbox"/> Corporation | <input type="checkbox"/> Non-Profit | <input type="checkbox"/> Franchise |        |
|---|---|--------------------------------------|---|-------------------------------------|------------------------------------|--------|
|   | <input type="checkbox"/> Other (Please Specify) _____ |                                      |   |                                     |                                    |        |
| Total Number of Employees (including owners): <u>563</u>  |   |                                      |   |                                     |                                    |        |
| Race/Ethnic Composition of Firm. Please distribute the above total number of individuals into the following categories: |   |                                      |   |                                     |                                    |        |
| Race/Ethnic Composition   | Owners/Partners/<br>Associate Partners                |                                      | Managers  |                                     | Staff                              |        |
|   | Male  | Female                               | Male  | Female                              | Male                               | Female |
| Black/African American  |   |                                      |   |                                     | 1                                  |        |
| Hispanic/Latino   |   |                                      | 1   |                                     | 12                                 | 2      |
| Asian or Pacific Islander   |   |                                      |   |                                     | 4                                  |        |
| American Indian   |   |                                      |   |                                     | 3                                  | 2      |
| Filipino  |   |                                      |   |                                     |                                    |        |
| White   |   |                                      | 34  | 7                                   | 430                                | 65     |

**III. PERCENTAGE OF OWNERSHIP IN FIRM:** Please indicate by percentage (%), how ownership of the firm is distributed.

|       | Black/African American | Hispanic/Latino | Asian or Pacific Islander | American Indian | Filipino | White |
|-------|------------------------|-----------------|---------------------------|-----------------|----------|-------|
| Men   | %                      | %               | %                         | %               | %        | 100 % |
| Women | %                      | %               | %                         | %               | %        | %     |

**IV. CERTIFICATION AS MINORITY, WOMEN, DISADVANTAGED, AND DISABLED VETERAN BUSINESS ENTERPRISES:** If your firm is currently certified as a minority, women, disadvantaged or disabled veteran owned business enterprise by a public agency, complete the following and attach a copy of your proof of certification. (Use the back of this form, if necessary.)

| Agency Name | Minority | Women | Disadvantage | Disabled Veteran | Expiration Date |
|-------------|----------|-------|--------------|------------------|-----------------|
|             |          |       |              |                  |                 |
|             |          |       |              |                  |                 |

**V. DECLARATION:** I declare under penalty of perjury under the laws of the state of California that the above information is true and accurate.

Authorized Signature

Title

Date

OAAC: Local SBE Form - Revised 10/23/02